

REMARKS

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In response, claim 1 has been amended to clarify that the characteristic selected is a characteristic of a communication in the communication system.

Claims 1-4, 7, 10-11, 15-16 and 19-21 are rejected under 35 USC §102(e) as being anticipated by Horneman et al. (U.S. Patent 6,560,460). Independent claims 1 and 21 have been amended to clarify the Applicant's invention. Specifically, it has been clarified that the dynamic system information comprises a resource allocation and that a characteristic of a communication in the communication system is set to a preferred value in response to the resource allocation.

It is respectfully submitted that Horneman et al. fails to disclose the features of dynamic system information relating to the status of the communication system and comprising a resource allocation being transmitted from the communication network to the at least one subscriber unit, and the setting at least one characteristic of a communication in the communication system to a preferred value in response to the resource allocation.

Horneman et al. disclose a system for determining a grade of service for a given mobile station. The grade of service is determined by the network in accordance with the conditions for the mobile station. However, it is clear that the algorithm is performed in the network based on the conditions of the mobile station (ref. e.g. column 5 line 21 to 26; column 6 line 17 to 35). Accordingly, the parameters used (e.g. the velocity and distance of the mobiles station ref. column 5 lines 1 to 5) are used only by the network. Clearly, this information is not transmitted to mobile stations. In fact, the only information that Horneman et al. discloses transmitting to the mobile station is the grade of service or details of the grade of service determined for the specific individual mobile station (ref. column 7 lines 4 to 5 and column 8 lines 5 to 8). It is respectfully submitted that this information is not dynamic system information relating to the status of the communication system and clearly does not comprise a resource allocation.

Accordingly, it follows that Horneman et al. further fails to disclose any means of using resource allocation information by the subscriber unit and accordingly Horneman et al. fails to teach, suggest or even hint at the features of selecting a preferred value of at least one characteristic of a communication in the communication system in response to the resource allocation at the at least one subscriber unit, and of setting the at least one characteristic of the communication in the communication system to said preferred value of the at least one characteristic.

In view of the foregoing remarks, it is submitted that independent claims 1 and 21 are in condition for allowance. Applicants further submit that claims 2-20 and 22-25 are allowable at least by virtue of their dependency on claims 1 and 21, respectively. Applicants respectfully request the reconsideration and reexamination of this application and the timely allowance of the pending claims.

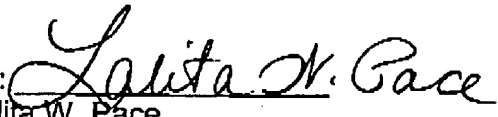
Please charge any fees associated herewith, including extension of time fees, to 50-2117.

Respectfully submitted,
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